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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,164	03/02/2004	Eiji Kato	FY.51039US1A	3401
20995	7590	09/22/2005	EXAMINER PHAN, HAU VAN	
KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			ART UNIT 3618	PAPER NUMBER

DATE MAILED: 09/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/791,164

Applicant(s)

KATO ET AL.

Examiner

Hau V Phan

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Information Disclosure Statement*

1. The information disclosure statement (IDS) submitted on 3/2/2004 has been considered.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. **Claims 1-4, 6-12, 15-21 and 31-32, 34 are rejected under 35 U.S.C. 102(e) as being anticipated by Seto (6,533,060).**

Seto in figure 1, discloses an off-road vehicle comprising a frame, a plurality of wheels (24, 26) arranged to support the frame, an internal combustion engine (36) powering at least one of the wheels, and an air intake system having intake duct (96) arranged to supply air to the engine for combustion. The air intake system has an air inlet through, which ambient air enters the intake system. The air inlet positioned higher than an uppermost surface of the wheels, and the air intake duct extending rearward to

the engine, at least a portion of the air intake duct being positioned lower than the uppermost surface of the wheels.

Regarding claim 2, Seto discloses a hood configured to cover at least a front portion of the frame. The air inlet disposed below the hood.

Regarding claim 3, Seto discloses at least a portion of the air cleaner, which is positioned below the hood.

Regarding claim 4, Seto discloses at least two seat assemblies disposed side by side on the frame. The air inlet positioned between the seat assemblies in a top plan view of the vehicle.

Regarding claim 6, Seto discloses an off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, a hood configured to cover at least a first portion of the frame, an internal combustion engine (36) powering at least one of the wheels, and an air intake system arranged to supply air to the engine. The air intake system comprises an air cleaner (90) configured to clean the air. The air cleaner disposed below a central portion of the hood.

Regarding claim 7, Seto discloses the engine, which is disposed on a second portion of the frame. The second portion is spaced apart from the first portion. The air intake system additionally comprises an air delivery conduit arranged to deliver the air in the air cleaner to the engine.

Regarding claim 8, Seto discloses the engine having an air intake port communicating with a combustion chamber of the engine and the air delivery conduit connects the air cleaner to the air intake port.

Regarding claim 9, Seto discloses the air delivery conduit comprising a throttle body that has a throttle valve to regulate an amount of air passing to the combustion.

Regarding claim 10, Seto discloses the air delivery conduit including an accumulator disposed between the throttle body and the balance of the intake duct, an inner diameter of the accumulator is greater than an inner diameter of the rest of the delivery conduit.

Regarding claim 11, Seto discloses a third portion of the frame extending between the first and second portions. The third portion includes a floorboard, at least a portion of the air delivery conduit extending below the floorboard.

Regarding claim 12, Seto discloses a seat unit disposed on the second portion of the frame. The engine and the seat unit are positioned next to each other.

Regarding claim 15, Seto discloses at least a portion of the air delivery conduit, which is positioned higher than the air cleaner portion.

Regarding claim 16, Seto discloses at least a portion of the air cleaner that is positioned higher than the wheels.

Regarding claim 17, Seto discloses at least a portion of the air cleaner that is positioned higher than the wheels.

Regarding claim 18, Seto discloses a seat unit (52) that defines a surface onto which a driver or passenger of the vehicle sits. The surface positioned higher than the wheels, and at least a portion of the air cleaner is positioned higher than the surface.

Regarding claim 19, Seto discloses the air cleaner having an air inlet and at least the air inlet is positioned higher than the surface.

Regarding claim 20, Seto discloses the air cleaner having an air inlet and at least the air inlet is positioned higher than the wheels.

Regarding claim 21, Seto discloses the hood additionally covers at least one of the wheels.

Regarding claim 31, Seto discloses an off-road vehicle comprising a frame, a plurality of wheels arranged to support the frame, at least one seat supported by the frame, an internal combustion engine (36) powering at least one of the wheels, and an air intake system arranged to supply air to the engine. The air intake system comprises an air cleaner configured to filter the air. The seat being disposed in a fore to aft direction on the vehicle such that the air cleaner lies forward of the seat and at least a portion of the engine lies to the rear of the seat.

Regarding claim 32, Seto discloses the air intake system delivers supply air to at least one combustion chamber of the engine.

Regarding claim 34, Seto discloses the air intake system delivers supply air to at least one combustion chamber of the engine.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**5. Claims 5, 13-14, 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto (6,533,060) as applied to claims 1, 3, 12 above, and further in view of Hamm (6,582,004).**

Seto discloses an off-road vehicle comprising an internal combustion engine (36) powering at least one of the wheels, and an air intake system arranged to supply air to the engine. The air intake system comprises an air cleaner (90) configured to clean the air. Seto fails to show at least two seat assemblies.

Hamm in figure 1, teaches an off-road vehicle comprising a frame, a plurality of wheels (14, 16) arranged to support the frame, at least two seat assemblies (22) disposed side by side on the frame. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the off-road vehicle of Seto with the substitution of the off-road vehicle having at least two seat assemblies as taught by Hamm in order to carry additional person on the vehicle.

**6. Claims 22-30 and 35-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seto (6,533,060) in view of Hamm (6,582,004).**

Seto discloses an off-road vehicle comprising an internal combustion engine (36) powering at least one of the wheels, and an air intake system arranged to supply air to the engine. The air intake system comprises an air cleaner (90) configured to clean the air. Nakamura et al. fail to show at least two seat assemblies.

Hamm in figure 1, teaches an off-road vehicle comprising a frame, a plurality of wheels (14, 16) arranged to support the frame, at least two seat assemblies (22) disposed side by side on the frame. It would have been obvious to one of ordinary skill

in the art at the time the invention was made to modify the off-road vehicle of Seto with the substitution of the off-road vehicle having at least two seat assemblies as taught by Hamm in order to carry additional person on the vehicle.

Regarding claim 23, Seto discloses at least a portion of the engine with addition of the seat assemblies from Hamm, which is positioned between the seat assemblies.

Regarding claim 24, Seto discloses the engine having an air intake port communicating with a combustion chamber of the engine. The air intake system additionally comprises an air delivery conduit arranged to connect the air cleaner to the air intake port.

Regarding claim 25, Seto discloses the air delivery conduit comprising a throttle body that has a throttle valve to regulate an amount of air passing to the combustion chamber.

Regarding claim 26, Seto discloses at least a portion of the air delivery conduit, which is positioned between the seat assemblies.

Regarding claim 27, Seto discloses at least a portion of the air intake port, which is positioned forward of a seat back of each of the respective seat assemblies.

Regarding claim 28, Seto discloses at least a portion of the air cleaner, which is positioned higher than the wheels.

Regarding claim 29, Seto discloses each one of the seat assemblies defines a surface onto which a driver or passenger of the vehicle sits. The top surface is positioned higher the wheels, and at least a portion of the air cleaner is positioned higher than the surface.

Regarding claim 30, Seto discloses the air cleaner having an air inlet and at least the air inlet is positioned higher than the surface.

Regarding claim 35, Seto discloses the air intake system delivers supply air to at least one combustion chamber of the engine.

Regarding claim 36, Seto discloses the air cleaner that is can be located adjacent the at least two seat assemblies.

### ***Response to Arguments***

7. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hau V Phan whose telephone number is 571-272-6696. The examiner can normally be reached on 7:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis can be reached on 571-272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Hau V Phan  
Examiner  
Art Unit 3618

*Hau Phan*  
*9/15/05*